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13 JUL 1961

MEMORANDUM FOR: Deputy Executive Officer, Office of Personnel

SUBJECT : Comments on Proposed Bill--"Back Pay Act of 1961"

1. In accordance with your request I have reviewed the attached Bill and forward the following comments:

a. The Bill applies to all departments, agencies, and establishments in the Executive Branch and, therefore, includes CIA.

b. Since the principle incorporated in the Bill is a well established one, the Agency would, of course, subscribe to it, although in view of the broad powers of the Director in the compensation area, the Bill may not be as essential to CIA as it might be to other Federal agencies. However, it could be useful to us in effecting retroactive adjustments in non-compensation areas (service credit, leave adjustments, etc.) where there might be some question as to the authority of the DCI to make such adjustments.

c. Historically, making reference [redacted] there was no problem on the question of retroactive compensation, since he had been separated under the Veterans Preference Act and the jurisdiction of the Civil Service Commission was recognized. Retroactive compensation was therefore payable under PL 623 (80th Congress), which incidentally would be repealed by the new Bill. In view of our current policy of using the Director's 102(c) authority exclusively in termination cases, it might be interesting to speculate on what authority the Agency would use to restore back pay if such restoration were to be ordered by a competent court. Looking at the matter from this point of view, there appears to be a distinct advantage to CIA in having subject Bill passed.

d. From the Agency's point of view, the only real concern that I have with the Bill has to do with Section 4, which empowers the Civil Service Commission to prescribe regulations to carry out its provisions. This is probably a theoretical rather than a practical matter, but conceivably the Commission could use this section to review an Agency personnel action alleged to be "unjustified or unwarranted." To be on the safe side, it might be advisable to ask the Legislative Counsel to discuss this point with a member of the staff of the Senate Civil Service Committee for the purpose of receiving assurances that this would not happen.

2. I am, of course, available to discuss the matter further either with you or the Legislative Counsel.

Attachment:
Subject Bill

[redacted]
Special Assistant to
the Director of Personnel

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